IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,   )
)   2 CA-CR 2006-0202-PR
                Respondent,   )   DEPARTMENT A
)
        v.   )   MEMORANDUM DECISION
)   Not for Publication
SAMUEL VIRAMONTES,   )   Rule 111, Rules of
)   the Supreme Court
                Petitioner.   )
)

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-67216

Honorable Michael J. Cruikshank, Judge

REVIEW GRANTED; RELIEF DENIED

Isabel G. Garcia, Pima County Legal Defender
  By Robb P. Holmes   Tucson
                                                          Attorneys for Petitioner

H O W A R D, Presiding Judge.

¶1   Following a jury trial, petitioner Samuel Viramontes was convicted of first-

degree murder. In May 2000, the trial court sentenced Viramontes to natural life in prison.

We affirmed Viramontes's conviction and sentence on appeal. *State v. Viramontes*, 200

Ariz. 452, ¶ 17, 27 P.3d 809, 813 (App. 2001).[1] The supreme court vacated this court's

opinion and remanded the case to the trial court for resentencing on the ground that,

whether the state seeks the death penalty or not, a trial court must apply A.R.S. § 13-703

in sentencing a defendant convicted of first-degree murder, rather than A.R.S. § 13-702,

which the trial court had applied in sentencing Viramontes. *State v. Viramontes*, 204 Ariz.

360, ¶¶ 2, 10, 15, 64 P.3d 188, 189-90 (2003). In August 2003, the trial court sentenced

Viramontes to life imprisonment with the possibility of parole after twenty-five years rather

than the natural life term it had previously imposed. The state appealed. We dismissed that

appeal for lack of jurisdiction, *State v. Viramontes*, 208 Ariz. 336, ¶¶ 12-13, 93 P.3d 536,

539 (App. 2004), but subsequently vacated that opinion and affirmed the sentence upon

reconsideration, *State v. Viramontes*, No. 2 CA-CR 2003-0265 (memorandum decision filed

Nov. 4, 2004).

¶2   In August 2003, Viramontes filed a notice of post-conviction relief, pursuant

to Rule 32, Ariz. R. Crim. P., 17 A.R.S., and filed a petition for post-conviction relief in

January 2004, which the trial court dismissed as untimely. We granted Viramontes relief on

review, vacating the trial court's order dismissing the petition and remanding the case to

allow the court to rule on the issues presented in the petition. *State v. Viramontes*, 211

Ariz. 115, ¶ 10, 118 P.3d 630, 632 (App. 2005). The trial court then dismissed all of

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[1]In a separate unpublished decision, we addressed the other issues Viramontes had
raised on appeal. *State v. Viramontes*, No. 2 CA-CR 00-0227 (memorandum decision filed
June 19, 2001).

Viramontes's claims, and this petition for review followed. We will not disturb a trial court's ruling on a petition for post-conviction relief absent an abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find none here.

¶3   Viramontes challenges the trial court's denial of relief on the following claims raised in his petition for post-conviction relief: the state's failure to disclose important information about a key witness at trial, Melissa Dietz, constituted a violation under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963); the prosecutor had misrepresented material information about Dietz's upcoming indictment; trial counsel had been ineffective by failing to challenge allegedly inculpatory evidence and to investigate the state's physical evidence; and Dietz's second indictment constituted newly discovered evidence that probably would have changed the outcome at trial. The trial court dismissed Viramontes's petition in a thorough minute entry that clearly identified Viramontes's claims and ruled in a manner that allows this court and any court in the future to understand the bases for its resolution of the claims. We therefore adopt the trial court's ruling and need not repeat its reasoning here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Although we grant the petition for review, we deny relief.

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JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

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JOHN PELANDER, Chief Judge

GARYE L. VÁSQUEZ, Judge